

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
DEC 05 2007



ROBERT A. JENSEN,
Plaintiff,

vs.

S.D. PAROLE & PARDON BOARD;
JC SMITH, Agent, Parole Board;
MICHAEL McGREEVY, SD Parole Board
Member; JAMES SHERIDAN, SD Parole
Board Member; SHARON LARSON,
SD Parole Board Member;

Defendants.

CIV. 07-4149

ORDER

The Court has reviewed the objections filed November 20, 2007, to Judge Simko's Report and Recommendation. The Court also finds that the relief claimed by Plaintiff is not available in this § 1983 action. The claim to be placed back on parole is one that could be brought in a habeas corpus action under 28 U.S.C. § 2254. Accordingly, the Plaintiff's Objections are overruled and the Report and Recommendation is adopted and the Complaint is dismissed with prejudice for failure to state a claim for relief under 42 U.S.C. § 1983.

IT IS ORDERED:

1. That the Plaintiff's Objections, Doc. 11, to the Magistrate Judge's Report and Recommendation are DENIED; and the Magistrate Judge's Report and Recommendation is ADOPTED by the Court and the Plaintiff's Complaint is dismissed with prejudice for failure to allege a claim upon which relief can be granted under 42 U.S.C. § 1983.

Dated this 5th day of December, 2007.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: Shelly J. Margulies
DEPUTY